

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RAFAEL CINTRON,

Plaintiff,

v.

ERIC WESHNER.,

Defendant.

**USDC-SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#:
DATE FILED: 10/16/2020**

18-CV-1619 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

Plaintiff, proceeding *pro se* and *in forma pauperis*, filed this action on February 21, 2018. On July 1, 2020, Defendant filed a motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c). Dkt. 55. On August 7, 2020, the Court granted Plaintiff's application to extend the deadline for response to Defendant's motion to September 30, 2020.

The Court has not since received any response from Plaintiff. No later than November 16, 2020, Plaintiff shall file either a response to Defendants' motion or a letter indicating that he does not intend to file a response. If Plaintiff informs the Court that he intends to pursue this action but chooses not to oppose Defendant's motion, the Court will deem the motion fully briefed and take it under submission. *See Goldberg v. Danaher*, 599 F.3d 181, 183 (2d Cir. 2010) ("Where... the pleadings are themselves sufficient to withstand dismissal, a failure to respond to a 12(c) motion cannot constitute a "default" justifying dismissal of the complaint.") (quoting *Magette v. Dalsheim*, 709 F.2d 800, 802 (2d Cir. 1983))). If, however, Plaintiff does not respond to this Order—either by responding to the motion for judgment on the pleadings or by submitting a letter indicating that he does not intend to respond—and does not request an extension to do so by November 16, 2020, the Court may dismiss this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

The Clerk of Court is respectfully directed to mail a copy of this Order to Plaintiff.

SO ORDERED.

Dated: October 16, 2020
New York, New York

A handwritten signature in blue ink, appearing to read 'Ronnie Abrams', is written over a horizontal line.

RONNIE ABRAMS
United States District Judge